

Art Unit: 2623  
Examiner: S. Beliveau  
U.S. Patent Application Serial No.: 09/784,9051  
Response to November 16, 2006 Office Action  
Docket: BS00431

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REMARKS

In response to the Office Action dated November 16, 2006, the Assignee respectfully requests reconsideration of the application based on the remarks and amendments submitted herewith. The Assignee respectfully submits that the pending claims distinguish over the cited references to *Knudson*, *NFL.COM*, *Swix* and *Ellis*, whether considered alone or in combination.

Claims 1-20 are pending, claims 21-29 having been previously cancelled in this application. Claims 1, 8, 10 and 15 are amended. Support for the substantive amendments to the claims may be found in the Specification at page 20, line 20 to page 21, line 6, for example. No new matter is submitted. Accordingly, entry and consideration of this Amendment is respectfully requested.

Assignee acknowledges the change to Examiner Scott Beliveau as the Examiner of Record for this application, and the change to Art Unit 2623 as the Art Unit of Record for the application, as noted in the Office Action. Assignee further appreciates the entry of the September 27, 2006 submission in this application, as also noted in the Office Action.

Assignee appreciates the courtesies extended by Examiner Beliveau in conducting the telephonic Interview on January 25, 2007 regarding this application, the Assignee's record of which is constituted by the amendments and remarks set forth herein. As agreed during the Interview, independent claims 1, 8, 10 and 15 are amended to recite a method or system comprising, *inter alia*, "in response to the non-contiguous events, prompting to switch from the first mode to the second mode wherein the programming grid is collapsed, thus displaying only channels, times and titles associated with the events in a respective package." The recitation of these features is agreed to distinguish over the references applied to date, thus rendering the claims allowable pending a further search by Examiner Beliveau. With respect to claim 12, Assignee submits that the recitation therein is not redundant with independent claim 10, from

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which claim 12 depends, as the features recited in claim 12 may apply to the "zoom mode" described in the paragraph bridging pages 21-21 of the Specification, as well as the "switching from the first mode to the second mode" otherwise recited in claim 10

### Claim Objections

Claims 10 and 15 were objected to for lack of antecedent basis with respect to "the processor" (claim 10) and "the first mode" and "the second mode" (claim 15). Each of claims 10 and 15 has been amended as to provide the requisite antecedent basis for the respective terms, thereby obviating the objections thereto. Accordingly, withdrawal of the objections to claims 10 and 15 is respectfully requested.

### Rejections of Claims under §103(a)

In the Office Action, claims 1-4, 7-11 and 14-20 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,016,141 to Knudson, *et al.* (hereafter "*Knudson*") in view of "NFL.COM: 1997 regular season to get August start" (hereafter "*NFL.COM*") and PCT Publication No. WO 00/14954 A2 (Swix, *et al.*, March 16, 2000)(hereafter "*Swix*"). Claims 5, 6, 12 and 13 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Knudson*, *NFL.COM* and *Swix*, in view of U.S. Patent No. 6,604,240 to Ellis, *et al.* (hereafter "*Ellis*").

To establish a *prima facie* case of obviousness, three criteria must be met: 1) the Examiner must identify "some suggestion or motivation ... to modify the reference"; 2) the Examiner must identify "a reasonable expectation of success"; and 3) "the prior art reference must teach or suggest all the claim limitations." DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, §2143 (orig. 8<sup>th</sup> Edition) (hereafter "MPEP"). The Examiner thus bears the initial burden of factually supporting any *prima facie* case of obviousness. See, *id.* at §2142. "If the Examiner does not produce a *prima facie* case, the applicant is under no

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obligation to submit evidence of nonobviousness.” *Id.* Only when the Examiner makes a *prima facie* case does the burden shift to the applicant to present evidence of nonobviousness. *See id.*

In view of this, the current Office Action fails to establish a *prima facie* case of obviousness for at least the following reasons.

**1. The combination of *Knudson*, *NFL.COM*, *Swix* and *Ellis* Fails to Teach or Suggest All of the Claimed Features, Thus Failing to Support a *Prima Facie* Case of Obviousness**

Independent claims 1, 8, 10 and 15 are not obvious. The combined teaching of *Knudson*, *NFL.COM*, *Swix* and *Ellis* fails to teach or suggest all of the claimed features of the pending claims. When a non-contiguous event from a selected package is recognized, independent claim 1, for example, recites, *inter alia*, “in response to the non-contiguous events, prompting to switch from the first mode to the second mode..., thus displaying only channels, times and titles associated with the events in a respective package.” Independent claims 8, 10 and 15 recite similar features.

The combined teaching of *Knudson*, *NFL.COM*, *Swix* and *Ellis* is silent to at least this feature. *Knudson* discloses an interactive television program guide system (20) for purchasing selected television or movie program events that are part of one or more packages. U.S. Patent 6,016,141 to *Knudson, et al.* (January 18, 2000) at Abstract and column 1, lines 5-10 and lines 55-65. As the Office Action concedes, however, *Knudson* does not disclose or suggest the use of a first mode and a second mode, wherein a switch to the second mode is prompted upon recognition of a non-contiguous event in a selected package, “thus displaying only channels, times and titles associated with the events in a respective package” as recited in each of the pending independent claims.

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*NFL.COM* is a news bulletin that merely discloses a list of games available for viewing over a 17 week season followed by a post-season. The games are scheduled at different times and are available via different broadcast facilities. *NFL.COM* is not applied for, and does not disclose or suggest, any means of selecting a game based on a first mode or a second mode, wherein a switch to the second mode is prompted upon recognition of a non-contiguous event in a selected package, *"thus displaying only channels, times and titles associated with the events in a respective package"* as recited in each of the pending independent claims.

*Swix* is applied for allegedly overcoming the deficiencies of *Knudson* with respect to the first and second modes recited in each of the pending independent claims. The Office Action citations used to allegedly disclose the claimed "second mode" rely predominantly on an array of topic list programming information that may be configured to provide more focused information. PCT Publication No. WO 00/14954 A2 (*Swix, et al.*, March 16, 2000) at page 15, lines 18-27. The array is further explained as configurable so that "the array only includes rows with highlighted elements." *Id.* Scrutiny of that passage however, together with reference to Figures 4 and 5, reveals that the rows with highlighted elements may also include *non-highlighted* elements. For example, in Figures 4 and 5, the row for "Channel 6-CNN" contains the highlighted element "Sports Highlights" as well as the non-highlighted element "Headlines." Such extraneous, non-highlighted elements are exactly what the display resulting from the second mode of the pending claims avoids in order to enable a viewer to more readily scroll through only those package events he would like to view or video without having to scroll through other information. *See, e.g.*, the Specification at page 20, line 20 to page 21, line 6. Thus, *Swix* fails to disclose or suggest a system or method having a first mode and a second mode, wherein a switch to a second mode is prompted upon recognition of a non-contiguous event in a selected package, *"thus displaying only channels, times and titles associated with the events in a respective package,"* as recited in each of the pending independent claims.

*Ellis* discloses an interactive television program guide system in which a service provider customizes the type of listing information made available to a user in order to help the service

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provider promote programming. U.S. Patent No. 6,604,240 to Ellis, *et al.* (August 5, 2003) at column 1, lines 49-67. The user may access the listings as grids, tables or other program guides using a set top box (34), for example. *Id.* at column 5, lines 1-5. A user in *Ellis* may select a program from a listing screen (58) by using a highlighting region (64) and then, by pressing an "info" button, obtain additional information about that selected program. *Id.* at column 5, lines 58-63. *Ellis*, however, is not applied for, and does not disclose or suggest, switching from a first mode to a second mode upon recognition of a non-contiguous event in a selected package for "displaying only channels, times and titles associated with the events in a respective package," as recited in each of the pending independent claims.

The Office Action thus fails to meet its burden of establishing a *prima facie* case of obviousness based on *Knudson*, *NFL.COM*, *Swix* and *Ellis* with respect to each feature recited in the pending independent claims, from one of which all other claims ultimately depend. Accordingly, withdrawal of the 35 U.S.C. §103(a) rejection of claims 1-20 based on any combination of *Knudson*, *NFL.COM*, *Swix* and *Ellis* is respectfully requested.

**2. Because No Reasonable Expectation of Success was Cited, the *Prima Facie* Case Is Defective**

The Examiner's alleged *prima facie* case, based on a combination of *Knudson* with either of *NFL.COM*, *Swix* and/or *Ellis*, is defective. A *prima facie* case for obviousness must include "a reasonable expectation of success". MPEP at §2143. Here, however, no basis has been cited in the Office Action for successfully combining *Knudson* with either of *NFL.COM*, *Swix* or *Ellis* to provide a system or method in which a switch from a first mode to a second mode is prompted upon recognition of non-contiguous events in a selected package, "thus displaying only channels, times and titles associated with the events in a respective package," as recited in the pending independent claims. All other claims ultimately depend from one of the pending independent claims 1, 8, 10 and 15. Because the Office has entirely failed to make such a finding, the Office has failed to properly establish a *prima facie* case for obviousness. Due Process thus demands

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that the Office withdraw the 35 U.S.C. §103(a) rejections of claims 1-20 based on any combination of *Knudson*, *NFL.COM*, *Swix* and *Ellis*.

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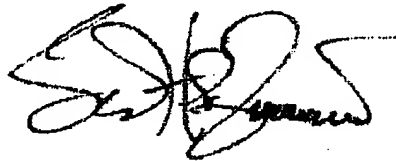
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CONCLUSION

In view of the above, the Assignee submits that all pending claims are patentable. Accordingly, a prompt Notice of Allowance of claims 1-20 is respectfully solicited.

Of course, if the Examiner determines that anything further is desirable to place this application in even better form for allowance, the Examiner is invited to contact the Assignee's representative at (919) 469-2629 or [scott@wzpatents.com](mailto:scott@wzpatents.com).

Respectfully submitted,



Scott P. Zimmerman  
Attorney for the Assignee  
U.S.P.T.O. Reg. No. 41,390